IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12136 of 1996

Between:

1 Tata Raja Rao S/o.Somaiah
Nagaram Primary Agriculture Coop Society , Nagaram Post & Mandal
2 L.Koteswara Rao S/o.Venkaiah
Nagaram Primary Agriculture Coop Society , Nagaram Post & Mandal
3 N.Ramakrishna Rao S/o.Suryanarayana Rao
Nagaram Primary Agriculture Coop Society , Nagaram Post & Mandal

..... PETITIONERS

AND

1 The Dy.General Manager
The dist Cooperative , Central Bank Ltd Repalle , Guntur Dist.
2 The Branch Manager , Repalle Branch
The Guntur Dist Cooperative . Central Bank Ltd Repalle , Guntur District.
3 The Commissioner and Registrar of Coop Societies
Nampally , Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue a writ , order or direction more particularly in the nature of writ of mandamus declaring the order of the 1st respondent Dt: 18-5-96 directing the branch authorities , Repalle Branch , the Guntur District Cooperative Central Bank Ltd . to recover the exgratia amount of Rs.13,073/- from the petitioners as illegal , arbitrary , without jurisdiction and contrary to the Bye -Laws issued by the Registrar of Coop. Societies and consequently direct the respondents not to recover the exegratia amount paid to the petitioners and pass such other order or orders.

Counsel for the Petitioner: MR.S.SIVA PRASAD

Counsel for the Respondent No.: G.P. for Co-operation

The Court made the following :

ORDER:

Petitioners, three in number, filed this writ petition seeking a Writ of Mandamus declaring the order of the 1st respondent-Deputy General Manager, District Co-operative Central Bank, Tenali, dated 18.05.1996, directing recovery of a sum of Rs.13,073/- from the petitioners, is arbitrary and illegal.

The petitioners 1 and 2 were appointed as paid secretaries of the Primary Agriculture Credit Society, Nagaram, within the operation of Repalle branch in the year 1980 and 1974 respectively. The 3rd petitioner was appointed as a clerk. Under the impugned memo, dated 18.05.1996 issued by the 1st respondent-Deputy General Manager of the District
Co-operative Central Bank Limited, Guntur a sum of Rs.13,073/- which was paid to the petitioners as exgratia, was sought to be recovered. The main contention raised by the petitioners is that the 1st respondent is not competent to issue the impugned proceedings.

The learned counsel for the petitioner contends that since the petitioners have been appointed by the Society, as per the bye-laws issued by the Commissioner and Registrar of Co-operative Societies which have been adopted by the second respondent Society by passing a resolution, the Society is the competent authority to fix the staffing pattern. Thus, according to the learned counsel the Society alone is the competent authorityto make the appointments on the basis of the work load and requirement and also to award exgratia and other benefits to the staff of the society.

The further contention of the learned counsel for the petitioners is that since the impugned proceedings were issued without prior notice, the petitioners had no opportunity to raise any objection against the impugned recovery proceedings and on that ground also the impugned proceedings are liable to be set aside.

No counter affidavit has been filed by the respondents though the writ petition is pending from the year 1996. In the circumstances, the un-controverter averments in the writ petition shall be taken to have been admitted.

Accordingly, I deem it appropriate to dispose of the writ petition permitting the petitioners to file their objections before the first respondent including the objection that the first respondent has no jurisdiction to initiate the impugned recovery

proceedings within a period of six weeks from the date of receipt of this order, in which event the respondents shall consider the same and pass appropriate orders in accordance with law. It is made clear that till such orders are passed no coercive steps shall be taken against the petitioners for recovery of amount in question, if not already recovered.

Writ petition is, accordingly, disposed of. No order as to costs.

05-08-2004

klp

To

1 The Dy.General Manager
The dist Cooperative , Central Bank Ltd Repalle , Guntur Dist.
2 The Branch Manager , Repalle Branch
The Guntur Dist Cooperative . Central Bank Ltd Repalle , Guntur District.
3 The Commissioner and Registrar of Coop Societies
Nampally , Hyderabad.

4 Two C.Cs. to G.P. for Co-operation, High Court buildings, Hyd

5 Two C.D copies.